

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION**

ABT, INC.,

Plaintiff,

v.

PETER JUSZCZYK,

Defendant.

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**Civil Action No: 5:21-cv-176**

**ORDER**

**THIS MATTER** is before the Court on Plaintiff ABT, Inc.’s (“Plaintiff”) Motion for Default Judgment against Defendant Peter Juszczuk (“Defendant”). (Doc. No. 7). In this action, Plaintiff seeks to recover from Defendant on a prior judgment entered by this Court in 2011. (Doc. No. 1). Specifically, on December 21, 2011, ABT obtained a judgment (the “Judgment”) against Mr. Juszczuk, in case number 5:09-cv-119-V, captioned *ABT, Inc. v. Peter Juszczuk and Sportsfield Specialties, Inc.* (the “Prior Action”). A copy of the Judgment is located on the Court’s Docket in the Prior Action at Docket Nos. 567 and 568.

Following Defendant’s failure to answer the Complaint in this action, a default was entered against Defendant on January 14, 2022. Defendant’s Motion for Default Judgment followed on January 21, 2022. On February 9, 2022, Defendant, who states that he does not have funds to hire counsel, responded to the motion by email, acknowledging the judgment in the Prior Action but suggesting that he should be given credit for his small successful counterclaim (\$3,400) and his attorneys’ fees (\$200,000) in the Prior Action.

ABT has demonstrated the existence of the valid prior Judgment, that no payment has been made by Defendant towards the Judgment, and that a current accounting of the Judgment reflects

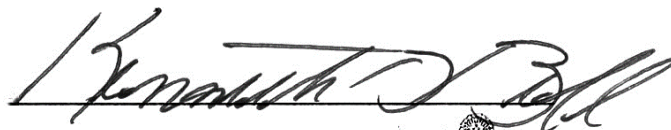
the sum certain balance of the Judgment to be \$315,703.96, which consists of \$279,531.00 in principal and \$36,172.96 in accrued interest. However, pursuant to the equitable power of the Court and the common law right of offset or setoff, the Court will deduct from this amount \$3,840, which reflects the \$3,400 counterclaim plus \$440 as a comparable amount of interest. *See In re Nedrick*, No. 10-33456-KLP, 2017 WL 1207507, at \*9 (Bankr. E.D. Va. Mar. 31, 2017). In the Prior Action, the Court directly addressed and denied Defendant's request for attorneys' fees. (Prior Action, Doc. No. 567 at 8-9). Thus, the Court will not setoff any amount for Defendant's attorneys' fees. In sum, the balance of the judgment in this action shall be \$311,863.96, reflecting \$276,131 in principal and \$35,732.96.

**THEREFORE, IT IS HEREBY ORDERED** that:

1. Judgment is hereby entered against Defendant Peter Juszczuk pursuant to Rule 55(b)(1) of the Rules of Civil Procedure;
2. Plaintiff is awarded damages in the amount of \$311,863.96, reflecting \$276,131 in principal and \$35,732.96;
3. Plaintiff is awarded post-judgment interest at the legal rate from the date of this Judgment until satisfied in full; and
4. The Court in its discretion declines to charge the costs of this action against Defendant.

**IT IS SO ORDERED.**

Signed: February 16, 2022



Kenneth D. Bell  
United States District Judge

